

AMENDMENT UNDER 37 C.F.R. §1.111  
U.S. APPLN. NO. 10/649,769

REMARKS

Applicant has amended the specification by inserting the headings suggested by the Examiner.

Applicant requests the Examiner to reconsider and withdraw the rejection under 35 U.S.C. § 112, second paragraph, in view of the new claims 17-26 which have been drafted to address the Examiner's stated grounds in support of this rejection; however, if the Examiner feels that any of the new claims is indefinite, it is requested that the Examiner call the undersigned attorney to discuss the matter.

Applicant respectfully traverses the rejections under 35 U.S.C. § 103(a) based on unpatentability (obviousness) over Focke '537 in view of Spatafora '239 and over Focke '537 in view of Spatafora '239 and further in view of Focke '815, for the following reasons.

First,

- a) New claim 17 essentially follows from canceled claims 4, 5, 6, 9.
- b) Claim 18 has been derived from claim 10.
- c) Claim 19 corresponds to claim 7.
- d) Claim 20 is based on claim 11.
- e) Claims 21 to 26 correspond to claims 11 to 16.

The claimed invention relates to the production of cigarette packs of the hinge-lid type with round pack edges (known as "round corner" packs). This type of pack requires a pre-treatment of the blanks in the region of the round edges. As is generally known, the round edges are defined by a number of parallel creases in the packaging material. However, without pre-

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treatment of the blank, this embossing of the material is not sufficient for producing a qualitatively acceptable "round corner" pack.

The preliminary shaping *per se* of the round corners is basically known, namely from the cited Focke '537. The shaping device shown and described therein is assigned to a folding turret and is located in the region of a pack path 18 leading to the folding turret. The essential problem of Focke '537 is that the pre-treatment of the blanks, namely the preliminary shaping of the round corners, is executed during a standstill phase of the blank. Thus, Focke '537 requires the blanks to be transported in cycles and to be subjected to the preliminary shaping during a required standstill interval; this requirement therefore limits the performance of this shaping device.

A preferred embodiment of Applicant's claimed invention utilizes an independent apparatus for the pre-treatment of blanks for "round corner" packs, namely a continually rotating rounding turret, which can be directly assigned to the packaging machine or to a folding turret; but it is also possible to operate the preliminary shaping device as a separate unit.

An actual special feature is that, even in the case of the invention, the blanks remain at rest during the entire shaping process relative to the claimed "rounding rollers" 22, 23. By virtue of their movement relative to the blanks and to the counter-shaping elements 20, 21, these rounding rollers thus have sufficient time to produce a precise rounding of the pack edges and to return to their initial positions. Nevertheless, the performance is significantly enhanced compared to that of the prior art, since Applicant's rounding process is conducted during the conveying movement of the blanks. Accordingly, the blanks are transferred to the rounding turret

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in the region of a charging station 28 and, after being subjected to the rounding treatment, are removed in the region of a removal station 34.

Also important is the feature of claim 18, namely the shaping of the blanks back into an essentially horizontal starting position. The blanks can then be further processed in the usual manner, namely by being immediately transferred individually and in succession to a folding turret or, as provided in the exemplary embodiment, grouped into stacks of blanks.

Spatafora '239 is directed to the folding of blanks. It therefore relates to a basically conventional folding turret with receptacles or pockets for blanks and pack contents. Specifically, it addresses the manufacture of units comprising a cigarette group with an inner liner made of paper or tin foil, and with a collar/frame. A blank for the collar is first introduced in the region of a station 14. This is followed by introducing a cigarette group with a blank 4 for the inner liner 5, into the same pocket. Only upon further transport do pivoted folding elements come into play, which first act upon a first, and then upon a second, folding tab of the inner blank.

Thus, Spatafora's folding turret is not suited for the processing and preliminary shaping of blanks. Therefore, even if Spatafora and Focke '537 were combined, there would not be produced an apparatus with the "rounding turret" as defined in claim 17 (and its dependent claims).

More specifically, Focke '537 provides the person of ordinary skill with the teaching that individual, successively conveyed blanks can be subjected to rounding treatment on both sides during a standstill interval. On the other hand, Spatafora teaches that a conventional folding

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turret (with pockets and associated pivoted folding webs) is equipped to fold freely projecting folding tabs in succession around an object, namely around a cigarette group. **Both** Focke '537 and the present invention relate to the pre-treatment of a blank for the subsequent packaging process. However, Spatafora relates merely to folding a foldable blank around an object. Thus, these two references do **not share any common features**, and are **incapable** of being combined to render obvious the subject matter of any of the pending claims 17-26.

In view of the above-described deficiencies in the Focke '537/Spatafora combination, it is clear that the Examiner's proposed modification of this combination, with the blank stacking, conveying and deforming features of Focke '815, also is **incapable** of rendering *prima facie* obvious the subject matter of any of the pending claims 17-26.

In summary, then, Applicant respectfully requests the Examiner to reconsider and withdraw the rejections under 35 U.S.C. § 103(a) insofar as these rejections may be applied to the new claims 17-26, and to find the application to be in condition for allowance with all of claims 17-26; however, if for any reason the Examiner feels that the application is not now in condition for allowance, the Examiner is respectfully requested to call the undersigned attorney.

Filed concurrently herewith is a Petition (with fee) for an Extension of Time of Two Months. Applicant hereby petitions for any extension of time which may be required to maintain the pendency of this application, and any required fee for such extension is to be charged to

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Deposit Account No. 19-4880. The Commissioner is also authorized to charge any additional fees under 37 C.F.R. § 1.16 and/or § 1.17 necessary to keep this application pending in the Patent and Trademark Office or credit any overpayment to said Deposit Account No. 19-4880.

Respectfully submitted,

  
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